

HOUSE BILL 518

By Hawk

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 34, Part 6, relative to retirement credit for
military service.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-34-605, is amended by deleting the section in its entirety and by substituting instead the following:

8-34-605.

(a) Any member who left the employ of an employer participating in the Tennessee consolidated retirement system in order to perform military service in the armed forces of the United States, and who is reemployed by such employer within six (6) months of honorable discharge from such service, shall have the option of establishing retirement credit for the military service under the following conditions:

(1) The member must be entitled to reemployment with the employer pursuant to the Uniformed Services Employment and Reemployment Rights Act, compiled in 38 U.S.C. §§ 4301-4334;

(2) The member must redeposit any amount the member withdrew from the retirement system upon leaving the employ of such employer, plus interest at the rate provided in § 8-37-214(a); and

(3) The member must make a back payment equal to the amount of employee contributions the member would have made had the member remained continuously employed with the employer during the period of military service claimed. Such contributions shall be based upon the earnable compensation the member was earning at the time the member left employment

to enter the military. Notwithstanding anything in this subdivision (a)(3) to the contrary, if the military service was during the Persian Gulf War, the service shall be credited without charge to the member, unless the member is an employee of a political subdivision. If the member is an employee of a political subdivision, the service shall be credited without charge to the member; provided, that the political subdivision accepts the liability therefor. "Persian Gulf War" means the period from and including August 2, 1990, to the date thereafter prescribed by presidential proclamation or by federal law.

(b)

(1) Any member or retired member who served in the armed forces of the United States during any period of armed conflict, as defined in subdivision (b)(2), shall be entitled to establish retirement credit for such military service without charge under the following conditions:

(A) The member was honorably discharged from such military service; and

(B) The military service credit cannot be used in determining any rights under the retirement system prior to the member becoming vested.

(2) "Period of armed conflict" means:

WW I 4/7/17 — 11/11/18

WW II 12/7/41 — 12/31/46

Korean War 6/27/50 — 1/31/55

Vietnam Era 2/28/61 — 5/7/75

(c) Any member or retired member who performed peacetime military service in the armed forces of the United States at any time from October 15, 1940, through May 7,

1975, shall be entitled to establish retirement credit for that military service under the following conditions:

(1) For the member's first year of peacetime military service, the credit shall be on the basis of one (1) day of creditable service for each day of military service rendered. To establish the first year of such military service, the member must pay employee contributions for the service claimed based on a contribution rate of ten and one half percent (10½%). The rate shall be applied to the member's earnable compensation at the time of the claim or, if not in service at the time of the claim, the member's earnable compensation at termination of employment;

(2) After the first year of peacetime military service, the credit shall be on the basis of one (1) day of creditable service for each two (2) days of military service rendered. To establish such military service, the member must pay employee contributions for the service claimed based on a contribution rate of nine percent (9%). The rate shall be applied to the member's earnable compensation at the time of the claim or, if not in service at the time of the claim, the member's earnable compensation at termination of employment; and

(3) The member shall be subject to the conditions set forth in subdivisions (b)(1)(A) and (b)(1)(B).

(d) Any member who was honorably discharged as a result of one hundred percent (100%) permanent total disability from any service-connected, combat-related cause as determined by the United States veterans administration whose permanent total disability existed on the date of discharge shall not be deemed to have military credit in any other retirement system, unless the member retired from the military with twenty (20) or more years of service.

(e) Subsections (b)-(d) shall be optional to political subdivisions in accordance with § 8-35-217.

(f) For part-time members, earnable compensation shall be increased to the corresponding full-time earnable compensation.

(g) In no case shall the total amount of retirement credit granted for military service under subsections (b)-(d) exceed four (4) years.

SECTION 2. This act is subject to funding being provided in the general appropriations act.

SECTION 3. This act shall take effect July 1, 2011, the public welfare requiring it.